

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

James Anderson McClellan, #164831

Plaintiff,

v.

Associate Warden Susan Duffy,

Defendant.

Case No. 9:19-cv-1864-SAL

ORDER

This matter is before the Court for review of the May 12, 2020 Report and Recommendation (“Report”) of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). *See* ECF No. 54. In the Report, the Magistrate Judge recommends the case be dismissed for lack of prosecution or, alternatively, due to Plaintiff’s failure to exhaust his administrative remedies.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the Court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note). After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the

Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, this Complaint is DISMISSED with prejudice for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

IT IS SO ORDERED.

November 16, 2020
Florence, South Carolina

/s/Sherri A. Lydon
Sherri A. Lydon
United States District Judge